

NATIONAL RECOVERY ADMINISTRATION

AMENDMENT TO
CODE OF FAIR COMPETITION
FOR THE
SILK TEXTILE INDUSTRY

AS APPROVED ON JULY 17, 1934



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AMENDMENT TO CODE OF FAIR COMPETITION

FOR THE

SILK TEXTILE INDUSTRY

As Approved on July 17, 1934

ORDER

APPROVING AMENDMENT OF CODE OF FAIR COMPETITION FOR THE SILK TEXTILE INDUSTRY

An application having been duly made pursuant to and in full compliance with the provisions of Title I of the National Industrial Recovery Act, approved June 16, 1933, for approval of an amendment to a Code of Fair Competition for the Silk Textile Industry, and hearings having been duly held thereon and the annexed report on said amendment, containing findings with respect thereto, having been made and directed to the President:

NOW, THEREFORE, on behalf of the President of the United States, I, Hugh S. Johnson, Administrator for Industrial Recovery, pursuant to authority vested in me by Executive Order No. 6543-A, dated December 30, 1933, and otherwise; do hereby incorporate, by reference, said annexed report and do find that said amendment and the Code as constituted after being amended comply in all respects with the pertinent provisions and will promote the policy and purposes of said Title I of said Act, and do hereby order that said amendment be and it is hereby approved, and that the previous approval of said Code is hereby modified to include an approval of said Code in its entirety as amended; provided that Article I, Section 5, as amended, be stayed in so far as it affects winders, warpers, coppers and quillers until such date as the Code of Fair Competition for the Textile Processing Industry shall contain a similar provision, subject to my further order; and provided further that Article VI, Section 4(C) shall read as follows:

“(C) No employer failing to pay assessments as above required, unless duly excepted from paying such assessment, shall participate in the selection of the Members of the Code Authority or receive the benefits of its voluntary activities or make any use of any N.R.A. insignia.”

HUGH S. JOHNSON,
Administrator for Industrial Recovery.

Approval recommended:

ROBERT L. HOUSTON,
Division Administrator.

WASHINGTON, D.C.,
July 17, 1934.

REPORT TO THE PRESIDENT

The PRESIDENT,
The White House.

SIR: This is a report on the Hearing covering the Amendments to the Code of Fair Competition for the Silk Textile Industry, held in Room A at the Washington Hotel, Washington, D.C., April 18, 1934. The Amendments, which are attached, were presented by duly qualified and authorized representatives of the Industry, complying with statutory requirements and being the Code Authority for the Silk Textile Industry.

In accordance with customary procedure every person who had filed a request for appearance was freely heard in public, and all statutory and regulatory requirements were complied with.

PROVISIONS OF THE AMENDMENTS

There are 16 Amendments as follows:

1. An Amendment providing for a change in the definition of productive machinery.
2. An Amendment defining the term "Outside Crews."
3. An Amendment providing for an increase in the number of members of the Code Authority.
4. An Amendment providing for the collection of assessments from members of the Industry.
5. An Amendment providing for the establishment of a committee to act on a joint committee with representatives of any other Code Authority of a related industry.
6. An Amendment providing for the submission to the Code Authority of reports and other statistical information required.
7. An Amendment providing for the establishment of an accounting system or method of cost finding and the determining of the lowest reasonable cost of any product when an emergency exists in the Industry.
8. An Amendment regarding goods shipped on memorandum.
9. An Amendment regarding the allowances permitted on returned goods.
10. An amendment providing for the use of confirmatory signed contracts.
11. An Amendment regarding the established terms for employers engaged in the selling of Broad Goods, Hat Bands, Special Fabrics, Ribbons and Tie Fabrics.
12. An Amendment regarding false advertising.
13. An Amendment providing for the registration and installation of productive machinery.
14. An Amendment regarding the terms of sale of Tie Fabrics.

15. An Amendment regarding the terms of sale on thrown yarns.

16. An Amendment regarding terms of sale on linings to retail and wholesale furriers.

FINDINGS

The Deputy Administrator in his final report to me on said amendments to said Code having found as herein set forth and on the basis of all the proceedings in this matter:

I find that:

(a) The amendments to said Code and the Code as amended are well designed to promote the policies and purposes of Title I of the National Industrial Recovery Act including the removal of obstructions to the free flow of interstate and foreign commerce which tend to diminish the amount thereof, and will provide for the general welfare by promoting the organization of industry for the purpose of cooperative action among trade groups, by inducing and maintaining united action of labor and management under adequate governmental sanction and supervision, by eliminating unfair competitive practices, by promoting the fullest possible utilization of the present productive capacity of industries, by avoiding undue restriction of production (except as may be temporarily required), by increasing the consumption of industrial and agricultural products through increasing purchasing power, by reducing and relieving unemployment, by improving the standards of labor, and by otherwise rehabilitating industry.

(b) The Code as amended complies in all respects with the pertinent provisions of said Title of said Act, including without limitation Subsection (a) of Section 3, Subsection (a) of Section 7, and Subsection (b) of Section 10 thereof.

(c) The Code empowers the Code Authority to present the aforesaid Amendments on behalf of the Industry as a whole.

(d) The amendments and the Code as amended are not designed to and will not permit monopolies or monopolistic practices.

(e) The amendments and the Code as amended are not designed to and will not eliminate or oppress small enterprises and will not operate to discriminate against them.

(f) Those engaged in other steps of the economic process have not been deprived of the right to be heard prior to approval of said amendments.

For these reasons these amendments have been approved.

Respectfully,

HUGH S. JOHNSON,
Administrator.

JULY 17, 1934.

MODIFICATION OF CODE OF FAIR COMPETITION FOR THE SILK TEXTILE INDUSTRY

Article I, Section 5, is hereby amended to read as follows:

5. The term "productive machinery" as used herein means all looms, winders, warpers, coppers, or quillers, dressing frames for the spun silk industry, spooling, coning, balling, tubing and skeining for the sewing thread and floss industry.¹

Article III is hereby amended by adding a new section, number 6, to read as follows:

6. "Outside Crews" is understood to mean yard-men, gate-men and men doing work on mill premises in the capacity of laborers. This classification shall not include truck drivers. The hours for outside crews shall be limited to forty (40) hours per week, with a tolerance of 10%. Overtime above forty (40) hours shall be paid at the rate of time and one-third. Any emergency time in any establishment shall be reported monthly through the National Federation of Textiles, Inc., to the Code Authority on the forms prescribed by it.

Article VI, Section 1, is hereby amended to read as follows:

1. To effectuate further the policies of the Act, a General Planning Committee, to be known as the Code Authority, is hereby designated to cooperate with the Administrator as a Planning and Fair Practice Agency for the Industry. The Code Authority shall consist of fifteen representatives of the Industry (or such other number as may be subsequently recommended by the Code Authority and approved by the Administrator), elected by the members of the Association and such other employers as bear their proportionate cost of the administration of this Code. This Code Authority shall be chosen by a fair method of selection, approved by the Administrator, and shall have in addition not more than three members without vote appointed by the Administrator. Such agency may from time to time present to the Administrator recommendations, based on conditions in the Industry as they may develop, which will tend to effectuate the operations of the provisions of this Code and the policy of the Act. Such recommendations, when approved by the Administrator, shall have the same force and effect as any other provisions of this Code.

Article VI, Section 4, is hereby amended to read as follows:

4. (A) In order to effectuate the policy of the Act and to maintain the standards of fair competition established hereunder, the Code Authority is authorized:

(1) To incur such reasonable obligations out of funds which shall be held in trust for the purposes of the Code and raised as hereinafter provided;

¹ See paragraph 2 of order approving this Amendment.

(2) To submit to the Administrator for his approval, subject to such notice and opportunity to be heard as he may deem necessary;

(a) An itemized budget of its estimated expenses for the foregoing purpose, and together with an itemized account of disbursements to date, covering the formulation and administration of the Code.

(b) Upon approval of such budget and disbursements the Code Authority is authorized, subject to the approval of the Administration, to collect from each employer an assessment based on the percentage of the net volume of business done by each such employer during such annual or semi-annual period as it may determine and during the operation of this Code to make such further assessments or reductions in assessments as may be found necessary upon approval by the Administrator.

(3) To institute legal proceedings to collect such assessments in its own name or in such name as may be necessary to comply with the practice of the court in which such proceedings are instituted.

(B) Each employer shall pay such assessments as hereinabove provided.

(C) No employer failing to pay assessments as above required shall participate in the selection of the Members of the Code Authority or receive the benefits of its voluntary activities or make any use of any N. R. A. insignia.²

Article VI is hereby amended by the addition of a new section, number 5, to read as follows:

5. It shall be the duty of the Code Authority for this Industry to designate representatives to act on a joint committee with representatives of any other Code Authority of a related industry, having reciprocal provisions in its Code of Fair Competition to consider questions regarded by either Code Authority as of common concern with reference to the effectuation of the policies of the Act including questions as to whether the operation of a given concern comes within the jurisdiction of one or more of the respective Codes of Fair Competition and to take such action as they may jointly agree to be appropriate subject to the approval of the Administrator.

Article VII is hereby amended to read as follows:

To obtain from members of the Industry such information and reports as are required for the administration of the Code. In addition to information required to be submitted to the Code Authority, members of the Industry subject to this Code shall furnish such statistical information as the Administrator may deem necessary for the purpose recited in Section 3 (a) of the Act to such Federal and State agencies as he may designate; provided that nothing in this Code shall relieve any member of the Industry of any existing obligations to furnish reports to any Government agency. No individual report shall be disclosed to any other member of the Industry or any other party except to such other Governmental agencies as may be directed by the Administrator.

Each employer shall afford to an impartial agency approved by the Code Authority and such employer access to the books, records and contracts relative to compliance with the terms of this Code to the extent permitted by the Act and such rules and regulations as may be approved by the Code Authority.

² See paragraph 2 of order approving this Amendment.

Article VIII, Section 2, is hereby amended to read as follows:

SECTION 2 (a). The standards of fair competition for the Industry with reference to pricing practices are declared to be as follows:

(1) Wilfully destructive price cutting is an unfair method of competition and is forbidden. Any member of the industry or of any other industry or the customers of either may at any time complain to the Code Authority that any filed price constitutes unfair competition as destructive price cutting, imperiling small enterprise or tending toward monopoly or the impairment of code wages and working conditions. The Code Authority shall within 5 days afford an opportunity to the member filing the price to answer such complaint and shall within 14 days make a ruling or adjustment thereon. If such ruling is not concurred in by either party to the complaint, all papers shall be referred to the Research and Planning Division of N.R.A. which shall render a report and recommendation thereon to the Administrator.

(2) When no declared emergency exists as to any given product, there is to be no fixed minimum basis for prices. It is intended that sound cost estimating methods should be used and that consideration should be given to costs in the determination of pricing policies.

(3) When an emergency exists as to any given product, sale below the stated minimum price of such product, in violation of Section 2(b) hereof, is forbidden.

SECTION 2(b). *Emergency Provisions.*—

(1) If the Administrator, after investigation shall at any time find both (1) that an emergency has arisen within the industry adversely affecting small enterprises or wages or labor conditions, or tending toward monopoly or other acute conditions which tend to defeat the purposes of the Act; and (2) that the determination of the stated minimum price for a specified product within the industry for a limited period is necessary to mitigate the conditions constituting such emergency and to effectuate the purposes of the Act, the Code Authority may cause an impartial agency to investigate costs and to recommend to the Administrator a determination of the stated minimum price of the product affected by the emergency and thereupon the Administrator may proceed to determine such stated minimum price.

(2) When the Administrator shall have determined such stated minimum price for a specified product for a stated period, which price shall be reasonably calculated to mitigate the conditions of such emergency and to effectuate the purpose of the National Industrial Recovery Act, he shall publish such price. Thereafter, during such stated period, no member of the Industry shall sell such specified products at a net realized price below said stated minimum price and any such sale shall be deemed destructive price cutting. From time to time, the Code Authority may recommend review or reconsideration or the Administrator may cause any determinations hereunder to be reviewed or reconsidered and appropriate action taken.

SECTION 2(c). *Cost Finding.*—The Code Authority shall cause to be formulated methods of cost finding and accounting capable of use by all members of the Industry, and shall submit such methods

to the Administrator for review. If approved by the Administrator, full information concerning such methods shall be made available to all members of the Industry. Thereafter, each member of the Industry shall utilize such methods to the extent found practicable. Nothing herein contained shall be construed to permit the Code Authority, any agent thereof, or any member of the Industry to suggest uniform additions, percentages or differentials or other uniform items of cost which are designed to bring about arbitrary uniformity of costs or prices.

Article VIII, Section 3, is hereby amended to read as follows:

3. Where goods are shipped on memorandum, every person engaged in the Industry shall bill them as of the date of shipment, unless the goods are returned within ten days after their receipt.

Article VIII, Section 4, is hereby amended to read as follows:

4. All allowances of claims or returns of goods shall conform to the provisions of this section, except as otherwise expressly provided by Article XI in respect to any specific branch of the Industry.

No allowances on or returns of finished goods shall be permitted by any employer unless the claim has been made in writing within ten days after receipt thereof, provided, however, that claims based on defects not discernible by reasonable inspection at time of delivery shall be made immediately on discovery, but, in no event, more than 60 days after receipt.

No allowances shall be made after such goods have been cut.

Article VIII, Section 6, is hereby amended to read as follows:

6. Every employer shall require confirmatory signed contracts, in the form prescribed by the Code Authority, with the approval of the Administrator, for all sales and processing transactions, except in the case of spun silk, sewing silk and thrown silk transactions, where such contracts shall be required only for transactions in excess of \$300.00. In any case which requires that goods must be shipped prior to the receipt of a confirmatory signed contract, persons engaged in the Industry must, on shipment of such merchandise, mail to the main office of the purchaser, a notice in the form:

NOTICE TO BE MAILED WITH INVOICE FOR ALL GOODS WHERE NO CONTRACT
HAS BEEN SIGNED PRIOR TO SHIPMENT

These goods are shipped subject to the Code of Fair Competition of the Silk Textile Industry, and they are delivered to you in response to your telegraphic, telephonic, or mail order, subject to the terms and conditions prescribed in the Uniform Sales Contract, a copy of which is printed on the back of this notice.

If you do not agree to abide by these conditions do not accept these goods, as your acceptance and retention for a period of twenty-four hours is an agreement on your part to be bound by the terms of the Uniform Sales Contract.

Article VIII is hereby amended by adding a new section, number 8, to read as follows:

8. Every employer engaged in selling Broad Goods, Hat Bands, Special Fabrics, Ribbons and Tie Fabrics shall observe the following shipment terms:

(a) All shipments of dyed and finished merchandise shall be f.o.b. point of shipment except that deliveries in the City of New York may be free of charges for trucking, freight or express. On deliveries from sales offices and stock rooms outside of New York City, standard freight charges from the mill to sales office and stock room, shall be added to the invoice.

(b) All shipments of Raw Goods shall be shipped f.o.b. mill.

All reference to shipping points contained in the terms of the various divisions shall be deleted.

Article VIII is hereby amended by the addition of a new section, number 9, to read as follows:

9. No employer shall use advertising, whether printed, radio or display, or of any other kind, and/or labeling and/or selling methods, which tend to deceive or mislead the purchaser or consumer.

The Code Authority may, subject to the approval of the Administrator, issue definitions and standards for accurate advertising and labeling of the various products of the Industry, which upon approval of the Administrator, shall be used by all employers.

Article VIII is hereby amended by the addition of a new section, number 10, to read as follows:

10. Every employer shall register with the Code Authority on its request, an inventory of his productive machinery in operation, in place, in storage, or under contract, in such form as to detail and certification as may be required by said Committee.

Two weeks after the effective date of this amendment, no employer now engaged in the Industry shall install or operate any productive machinery not operated in the Industry, or in operating condition at that time, except for the replacement of productive machinery of substantially the same capacity, without first securing from the Administrator a certificate that such installation will be consistent with effectuating the policy of the Industrial Recovery Act, and no application shall be made or granted for any such certificate without first submitting it to the Code Authority for its recommendation.

Nothing contained in this paragraph shall be construed to prevent the sale of existing machinery heretofore in operation by one employer to another, all such sales to be reported to the Code Authority.

Article XI, Tie Fabrics, is hereby amended to read as follows:

TIE FABRICS

6/10/60 e.o.m. on all goods sold to the men's neckwear trade. Anticipation at the rate of 6% per annum. Interest shall be paid on deferred deliveries at the rate of 6% per annum. Not more than sixty days shall elapse between delivery of samples and delivery of merchandise. No order for sample lengths shall be taken nor sample lengths delivered or loaned without orders for goods for later delivery. No extra dating shall be given on samples. No member of the Tie silk Industry shall ship merchandise on consignment or memorandum except to his duly accredited agent.

Article XI, Thrown Yarns, is hereby amended to read as follows:

THROWN YARNS

All transactions between buyer and seller shall be confirmed by signed contracts and subject to the following terms, only on thrown silk yarns and combination yarns containing silk; To Hosiery Manufacturers, 1/10 e.o.m., net 60 days' trade acceptance from date of shipment; to Weavers, 10 days, 1% net 60 days' trade acceptance

from date of shipment. Interest shall be paid on deferred deliveries at the rate of 6% per annum.

The terms of sale on dyed and/or converted and/or novelty twist yarns made of rayon and/or other synthetic fibres shall be those provided in the Code of Fair Competition for the Textile Processing Industry.

Article XI is hereby amended by the addition of a new provision to read as follows:

LININGS TO FURRIERS

Shipments to retail furriers in February, March, April, May, June and July shall bear maximum terms of either 6/10 October 1st or 5/10 November 1st. No optional terms to be given. Goods shipped in August and September shall bear maximum terms of 6/10 December 1st. Goods shipped in October, November, December and January shall bear maximum terms of 6/10/60.

Shipments to wholesale furriers or fur coat lining jobbers in February, March, April, May, June, July, August and September shall bear maximum terms of 6/10/4 months. Goods shipped in October, November, December and January shall bear maximum terms of 6/10/60.

E.o.m. terms may be given on above shipments to wholesalers or fur coat lining jobbers.

Shipments on memorandum, which are subsequently invoiced regularly, shall be billed as of the date of shipment on memorandum.

No tender of return shall be accepted after thirty days of receipt of merchandise. No anticipation is to be allowed that will bring the total discount above 8 per cent.

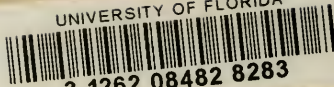
Terms and dating must appear on all invoices.

Approved Code No. 48—Amendment No. 1.

Registry No. 263-01.



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